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OFFICE OF THE MERIT COMMISSIONER

Province of British Columbia

2005/2006 Annual Report

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OFFICE OF THE
MERIT COMMISSIONER

The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Room 207, Parliament Buildings,
Victoria, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present the 2005/2006 Report to the Legislative Assembly in accordance with section 5.2 (1) of the *Public Service Act*. This annual report covers the period of April 1, 2005 to March 31, 2006.

As an Officer of the Legislative Assembly I would be pleased to appear and report further on these matters at the request of the Members of the Legislative Assembly.

Respectfully submitted,

Joy Illington

Joy Illington
Merit Commissioner

Victoria, British Columbia
October 2006

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OFFICE OF THE
MERIT COMMISSIONER

Message From The Merit Commissioner

It is my honour to present the fifth annual report for the Office of the Merit Commissioner. This report marks an important transition for the role of Merit Commissioner. In 2001, the functions of Merit Commissioner and that of Deputy Minister responsible for human resource management for the BC Public Service were performed by the same individual. Five years later, these are separate positions and the Merit Commissioner is an independent officer of the Legislature.

A special committee of the Legislative Assembly was appointed to select and unanimously recommend the appointment of a Merit Commissioner. They completed their task in May, 2006. The Committee's recommendation was approved by the Members of the Legislature and I was appointed as the first Merit Commissioner to be an independent officer of the Legislature. Their public report is available at: http://www.leg.bc.ca/cmt/38thparl/session-2/merit/index.htm

This report provides the opportunity to recognize two individuals who performed the role of Merit Commissioner during the period of this report.

Diane Rabbani filed the fourth annual report for the Office of the Merit Commissioner in May, 2005. She led the Public Service Agency's shift to provide more authority and flexibility to ministry managers to recruit and promote staff. She began the change to a more simplified approach to staffing that moved the focus from process to results. Diane also capably established the system of expedited reviews of appointments, on the basis of merit, requested by employees who are unsuccessful applicants for public service positions.

James Gorman was appointed Acting Merit Commissioner and Acting Deputy Minister of the Public Service Agency in June 2005. Government initiated the legislative changes to the *Public Service Act* which separated the role of leading the Public Service Agency from the role of Merit Commissioner. The position of Merit Commissioner became vacant when the amendment became law in November, 2005. James has continued in his role as Head of the Public Service Agency — working toward the vision that the BC Public Service will be recognized as the leader in Canada, and internationally, for public service excellence.

Both these individuals have been champions of a qualified and non-partisan public service. They provided a firm foundation of a professional approach to audits and a thorough and impartial final review of public service appointment decisions. The credit for the accomplishments within this time period belongs to them and to their dedicated staff.

The Merit Commissioner monitors the application of the merit principle in the BC public service. This is done, first, by conducting a random audit of appointments to and from within the public service. The audit checks whether the appointments are the result of a merit-based process and that the individuals appointed are competent and qualified to do the job. Results are reported to Deputy Ministers and heads of every organization that is audited, and summarized in this annual report. The audit of appointments made in 2005 was increased in size over the previous year, and completed in August, 2006. I thank my staff and the auditors for their diligence.

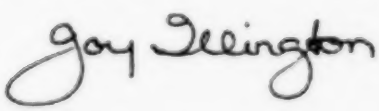
Merit is also monitored by reviewing appointments on request from employee applicants who believe that the merit principle was not applied to specific appointments for bargaining unit positions. The Merit Commissioner's decision is final and binding and can either confirm that merit was applied, or direct that the appointment be reconsidered. All the review results in this report were completed by my predecessors.

While I am pleased to report that there is no evidence from the audit or from the reviews to indicate that any individuals were not qualified for the position to which they were appointed, or that any appointment was based on patronage, there were three appointments that lacked the documentation necessary to be able to draw a conclusion. My observations from the audit, made for the purpose of continuous improvement, are noted further in this report.

An annual report provides a retrospective on the past year. I will take this opportunity to provide a preview of the activities of the Office going forward. Merit is a cornerstone in building and sustaining the BC Public Service as a highly engaged workforce. It is my goal to increase the number of audits and to report the data on a quarterly basis to Deputy Ministers and heads of agencies. Timely information will add value as these leaders make critical decisions about investments in organizational capacity and performance.

I will be pro-active in discussing merit with key stakeholders of the BC Public Service including: MLAs, Deputy Ministers and heads of agencies, managers, the BC Excluded Employees' Association and the three organizations representing unionized staff: the BCGEU, the Professional Employees' Association, and the BC Nurses' Union. I will also be in touch with academic institutions involved in public service training, and with the public.

I support the initiatives in the Corporate Human Resources Plan of October, 2006 to address looming succession and hiring challenges in the BC Public Service. I encourage new approaches to recruit, develop, engage and retain public service employees. This Office will be constructive, fair and transparent as it holds government to account for merit and non-partisanship in appointments in the public service. This oversight is a vital part of the accountability framework that underlies our democratic system of responsible government.



Joy Illington
Merit Commissioner

Public Service Staffing System — Accountabilities

BC Public Service Agency — sets staffing policies and procedures and provides staffing support and consultation to clients.

Ministries — responsible for the first two steps in an internal staffing review process and for staffing activities delegated by the Deputy of the BC Public Service Agency.

Merit Commissioner — responsible for providing systemic oversight of the application of the merit principle in the BC public service and for providing a review of the application of merit as the final step in an internal staffing review process for positions in the bargaining units.

Corporate Overview — Office of the Merit Commissioner

Vision — A professional and non-partisan public service.

Mission — To serve the people of British Columbia and the Legislative Assembly by monitoring public service appointments to ensure application of the merit principle.

Principles — The Merit Commissioner will operate in a manner consistent with the following principles:

- Fairness and impartiality;
- Personal and managerial independence;
- Confidentiality;
- Accountability to the Legislative Assembly and British Columbians.

Key Responsibilities — The Office of the Merit Commissioner will:

- Monitor the application of merit by conducting audits of public service appointments;
- Provide a review of the application of merit as the final step in an internal staffing review process for positions in the bargaining unit;
- Report annually to the Legislative Assembly on the application of the merit principle in public service appointments.

The Office of the Merit Commissioner may:

- Undertake special reports or "merit performance reviews" of system-wide issues respecting the application of the merit principle;
- Prepare and distribute surveys to assess the attitude of public service employees towards the application of the merit principle in the public service.

The Merit Principle in the BC Public Service

Merit has been the foundation of staffing in the public service for almost 100 years and has developed, over time, to the provision found today in the *Public Service Act*. This states that appointments to, and from within, the public service are to be based on the principle of merit.

Merit means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job. The *Public Service Act* states that the matters to be considered in determining merit must, having regard to the nature of the duties to be performed, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

Fundamental to a merit-based staffing process are the following key, overarching principles, which originate in legislation and in policy:

- staffing decisions are based on fair and equitable treatment of all applicants;
- open and transparent staffing processes and practices are followed;
- efficient and effective staffing practices, capable of recognizing and responding to current and future organizational requirements, are developed;
- flexible and innovative staffing processes, which reflect the nature and responsibilities of individual positions, are utilized;
- the public service is a single employer with a focus on broader corporate competencies; and
- diversity is valued and respected.

These principles support a results-based approach to staffing and are considered in the Merit Commissioner's audit and review of appointment decisions.

What is the Principle of Merit?

Merit means that appointments will be:

- **Non-partisan; and,**
- **Based on an assessment of competence and ability to do the job.**

Year in Review

1.0 Merit Compliance Audits

1.1 The Audit Process

Section 5.1 of the *Public Service Act* requires the Merit Commissioner to monitor the application of merit by conducting random audits of appointments to, and from within, the public service.

The audits assess whether:

a) the recruitment and selection processes were applied properly, resulting in appointments based on merit; and

b) the appointed individuals possessed the required qualifications for the position.

The audit process is based on professional audit standards and methodology to ensure the necessary level of rigour and objectivity in assessing the application of merit. Accordingly, the Internal Audit and Advisory Branch of the Office of the Comptroller General assisted in designing and developing a program to review the application of merit on completed appointments.

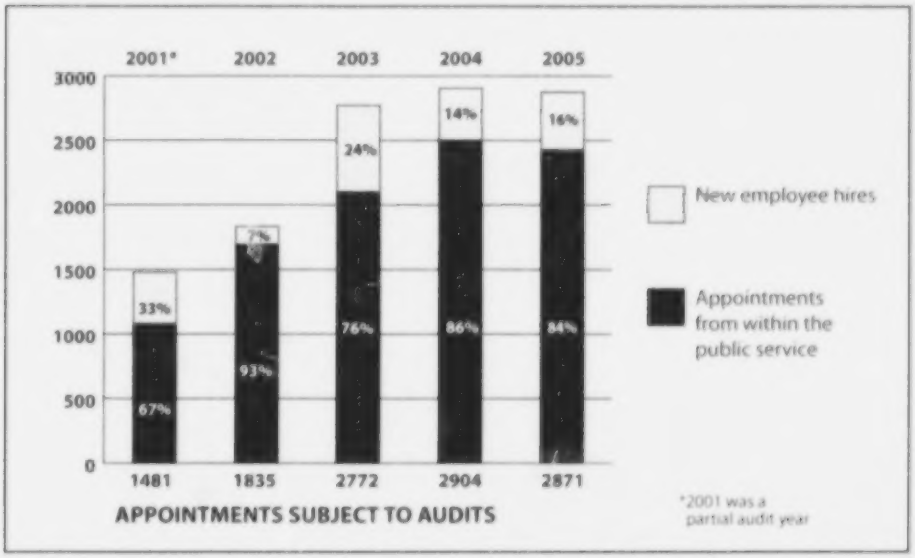
An overview of the audit process and program is included in this report as Appendices A and B.

To obtain an unbiased picture of the proper application of merit across the public service, the appointments selected for audit are both random and representative. The random sampling process, administered by BC STATS, is described in their report, "Random Selection for Merit Compliance Audits," and included in this report as Appendix C.

1.2 Appointment Details

For the purpose of the audit, all temporary appointments over seven months, regular appointments and direct appointments are identified. In 2005, there were 2,871 appointments in these categories.

There was a slight decrease (1%) in the number of appointments made in 2005 compared to appointments made in 2004. The graph shows the year to year comparison of appointments made over the last 5 years.



New employees to the public service accounted for 16% of the appointments, while 84% of the appointments were from within the public service.

The percentage of temporary appointments for longer than 7 months in 2005 was 14%. This is an increase from 2004 (11%) and 2003 (10%).

Victoria, as a location, continues to have the highest number of appointments (48%). This is consistent with previous years.

1.3 Audit Sample Details

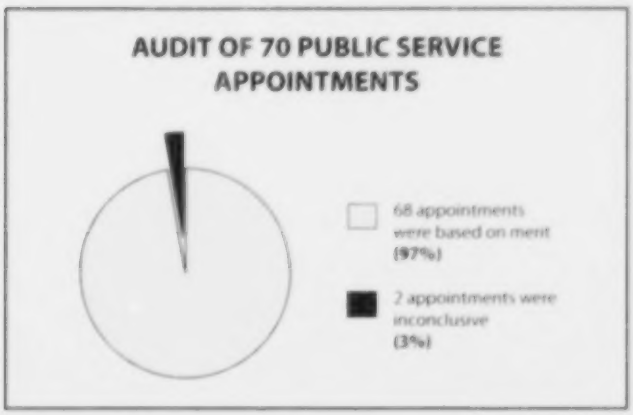
For the 2005 calendar year, 70 appointments in 22 ministries or agencies were audited.

Of the 70 appointments audited, 58 (83%) were appointments of current public servants and 12 (17%) were new hires to the public service. Temporary appointments for longer than 7 months accounted for 8 (11%) of the appointments audited, and regular appointments accounted for the balance. Of the regular appointments, 61 (87% of all appointments audited) were appointed through a competition and 1 (1%) through direct appointment.

1.4 Audit Results

The audit results of the 70 appointments concluded that:

- 68 appointments (97%) were based on merit; and
- 2 appointments (3%) were inconclusive as there was insufficient competition documentation to determine merit.



While there was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage, 2 files had insufficient documentation to allow a conclusion.

1.5 Year to Year Comparison of Merit Compliance

As the following graph notes, the audit results remain relatively consistent over time. The results over the last three years have been similar.

	2001	2002	2003	2004	2005
Appointments Audited	39	30	40	39	70
Appointments based on merit	37 (95%)	26 (87%)	39 (98%)	38 (97%)	68 (97%)
Appointments not based on merit	1	3	1	1	—
Inconclusive	1	1	—	—	2

1.6 Audit Observations

Audit findings provide objective information about the integrity of hiring decisions. The *Public Service Act* requires that appointments to and within the public service must be based on the principle of merit and that appointments be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants. Consistency, transparency, fairness, reasonableness, and relevance are the values that are integral to merit-based appointment decisions. In addition to the legislative requirements, there are collective bargaining agreements that must be considered. Data from audits should be useful to the BC Public Service Agency, Deputy Ministers, heads of other government agencies, and managers responsible for appointment decisions as they work to identify, hire and promote qualified individuals.

The following comments identify some common problems and noteworthy practices gleaned from the audit. The observations are offered for continuous improvement to those accountable for the appointment decisions in the BC Public Service.

Documentation

Managers are accountable for their staffing decisions and adequate documentation helps to provide assurance to employees, oversight agencies and the public that the integrity of the staffing system is being upheld. Documentation supporting an appointment decision should provide evidence that steps and decisions taken throughout the selection process are justifiable, transparent, and reasonable and uphold the merit principle.

Having a complete file supporting an appointment decision is also critical in the administration of the staffing review process. For example, complete documentation will aid managers as they provide feedback to applicants, support Deputy Ministers as they undertake internal inquiries and will be required by the Merit Commissioner's review of specific appointment decisions.

The random audits undertaken by the Office of the Merit Commissioner is based on a program that compares documented evidence of performance against predetermined criteria. Although the type and nature of the documentation will vary based on the unique nature of each staffing action, there are certain common elements related to any staffing process. The auditor is required to gather enough independent evidence to support the conclusion that the appointment was based on merit and that the individual possessed the required qualifications for the position.

Many of the files audited for 2005 were missing some records. In most cases the auditors were able to follow-up and obtain missing documentation. In one case there was sufficient evidence to infer a meritorious process and a qualified candidate. This case has been reported as merit 'with exception'. However, in two further cases the auditor could not gather enough verifying information to support the ministries' appointment decisions. As there was simply insufficient evidence to determine whether the merit principle had been applied at all, these two appointment decisions have been reported as inconclusive.

Competencies

Deputy Ministers or their delegated managers are responsible for determining the criteria and the process to be used for considering, assessing and selecting candidates for appointments. There are a variety of approaches for doing this and managers can decide which one best serves their organization. Some of the competitions audited used competency-based assessments and increasingly ministries are identifying competencies and the associated performance level that are required to do the job.

The BC Public Service Agency maintains a comprehensive electronic competency resource centre, including descriptions and targeted behavioural levels for all competencies used in the BC Public Service. These web pages are available on a password protected website which only public service employees can access. The public cannot.

Given government's need to recruit new employees into the workforce, there is good reason to make available to all prospective applicants, information about the competencies expected for optimum performance in the BC Public Service.

Past Work Performance

It is well established that past work performance is one of the strongest predictors of a person's future performance. The *Public Service Act* s.8 (2) lists past work performance as one of the matters to be considered in determining merit. Current policy requires that past work performance be assessed for candidates being proposed for appointment.

The 2005 audit indicated that current practice includes the assessment of past work performance through the checking of references of those candidates about to be offered a position. However, four of the files audited showed that references had not been checked for other candidates being placed on an eligibility list for future appointments. For the purposes of this audit, the four appointments audited were identified as merit-based, but this practice was flagged as an exception. Neglecting to assess past work performance, apart from being poor practice and contravening policy, may result in future appointments from the eligibility list that are non-meritorious.

It was noted that where the candidate's referee was a member of the selection panel, a number of files did not contain documents about the assessment of past work performance. A transparent selection process should include documenting panel discussions assessing the known candidate against the selection criteria.

Notification

Three files audited had no record of notice to unsuccessful applicants of the outcome of the competitions. There is no obligation to inform non-employee applicants of the results, although it is considered sound practice to inform all applicants of the outcome.

However, failure to notify unsuccessful employee applicants that an appointment has been made is a denial of their right to seek formal recourse of the appointment decision granted by regulation, and by collective agreement. Employees who are unsuccessful applicants have the right to receive feedback from the individual responsible for the appointment decision.

Employees may also request an internal inquiry by the Deputy Minister on the basis that merit was not applied and that the appointment was not the result of a process designed to appraise applicants' knowledge, skills and abilities. Further, those employees who are unsuccessful in their application for a bargaining unit position have the right to request a review by the Merit Commissioner.

The consequence of failing to notify unsuccessful employee applicants is serious, and may undermine confidence in the merit of the appointment and its process. For the purpose of this audit, these three appointments were identified as merit-based, but were flagged as exceptions.

The audit produced two examples in which managers recognized the compelling need to encourage external candidates to consider the Public Service as an option. A Ministry of Forests competition file revealed that the hiring manager provided relevant feedback to all candidates who applied, on the premise that all applicants for public service employment should be thanked for their interest and encouraged to improve their performance on their next application.

A file from the BC Public Service Agency showed a manager following-up with personal letters to those qualified applicants who withdrew from the competition, expressing continued interest in having them consider the public service as an employer of choice in the future.

Restricted competitions

Ministries have the authority to restrict competitions to geographic areas, employees in ministries, or even branches of ministries providing that there is a clear rationale for making a limited search. In this 2005 audit, 17% of the competitions were restricted. In a larger audit, this percentage would raise a flag of concern as this practice counters the efforts of the Public Service Agency to have ministries recruit more broadly in order to renew the BC Public Service and to make it more representative of all British Columbians. The Corporate Human Resource Plan, released October, 2006 indicated that all competitions are to be open to the public. Future audits should show a reduction in the number of restricted competitions.

Conflict of Interest

The Standards of Conduct for Public Service Employees requires employees to disqualify themselves as participants in personnel decisions involving direct relatives or people living in the same household. Further, there is a restriction against employment where there is a reporting relationship where one employee has influence, input or decision-making power over the other employee's performance evaluation, salary premiums, special permissions, conditions of work and similar matters.

The audit noted a competition where one of the candidates was a relative of the manager who would ordinarily have been part of the hiring decision. The conflict was avoided by having another manager involved in the entire process of short listing, assessment, and hiring decisions. In this case, the relative was the successful candidate; therefore the manager changed positions so there would be no reporting relationship. Both merit and integrity were confirmed, which helps to maintain public confidence.

I have noted eight out of 70 files audited where although the appointment was merit-based, there were exceptions to existing guidelines or policies for staffing practices. Better performance is required. Aiming for a high confidence level that appointments are merit-based is a critical part of achieving the target of being the best public service in Canada.

2.0 Staffing Reviews

2.1 Staffing Review Process

The staffing review process has been provided for by the *Public Service Act* since December 1, 2003. The process provides employees who are unsuccessful applicants to an appointment in the public service, to seek a review of the staffing decision. The relevant section of the Act that describes the process is included in this report as Appendix D, and the accompanying Regulation is included in this report as Appendix E.

As the final step in an internal staffing review process, the Merit Commissioner is responsible for considering requests for reviews of appointments from employees who are unsuccessful applicants to bargaining unit positions on the ground that the appointment did

not comply with Section 8(1) of the Act. This section establishes that appointments to, and from within, the public service must:

(a) be based on the principle of merit; and

(b) be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants.

The Merit Commissioner, after confirming the eligibility of the employee requesting the review, undertakes a file review of all written documentation related to the staffing process. The Merit Commissioner may request additional information from the parties, including verbal evidence to support the written documentation.

The mandate of the Merit Commissioner is to conduct a review into the appointment on the basis of the grounds presented by the employee requesting the review. After conducting a review, the Merit Commissioner may dismiss the request for review, or direct that the appointment or the proposed appointment be reconsidered.

The Merit Commissioner's decision is final and binding.

2.2 Review Decisions

Requests Outstanding from the 2004/2005 Fiscal Year

The 2004/2005 Annual Report indicated there were 16 outstanding requests for review that would be decided and reported in the 2005/2006 Annual Report.

Fifteen of the decisions issued by the Merit Commissioner found the appointments complied with the merit principle and supported the ministries' appointment decisions. There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.

In one review, the ministry was unable to supply sufficient competition documentation to support the hiring decision. It was not possible to conclude whether the merit principle was applied. The ministry was directed to reconsider the appointment made.

The decisions issued represented 11 employees, 5 competitions and 3 ministries or agencies. Employees submitted requests on multiple competitions and some competitions had more than one employee requesting a review.

Requests Filed in the 2005/2006 Fiscal Year

During the 2005/2006 fiscal year, the Merit Commissioner received 12 individual requests for review. Of these one was deemed ineligible as the ministry took the pre-emptive step of cancelling the competition, therefore, no appointment was made. Six decisions were issued.

All decisions found that appointments made complied with merit. There was no evidence to indicate that any individual was unqualified for the position to which they were appointed or that the selection was based on patronage.

The decisions issued represented 6 employees, 11 competitions and 4 ministries or agencies. Employees submitted requests on multiple competitions and some competitions had more than one employee requesting a review.

Not all requests received were decided in the 2005/2006 fiscal year as a result of the position of Merit Commissioner becoming vacant in November 2005. Four outstanding requests for review were decided by the current Merit Commissioner and will be included in the 2006/2007 Annual Report.

2.3 Year to Year Staffing Review Activity Comparison

	FISCAL YEAR 2004/2005	FISCAL YEAR 2005/2006
Requests for Review Received	32	12
Requests for Review Outstanding from Previous Fiscal Year	—	16
Requests for Review Ineligible or Withdrawn	5	1
Total Eligible Requests for Review	27	27
Decisions Issued *	11	22
Decisions Deferred to Next Fiscal Year	16	4
Appointments Complying with Merit	7	21
Appointments Not Complying with Merit	2	—
Inconclusive	—	1

* Decisions issued reflect requests for review from employees on multiple competitions and/or competitions involving a request for review from more than one employee.

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Appendices

Appendix A — Frequently Asked Questions
- The Merit Principle and the Audit Process
- The Audit Program

Appendix B — Copy of Merit Audit Program

Appendix C — Random Selection of Cases for Merit Compliance Audits
- BC STATS Report

Appendix D — *Public Service Act*
Part 4 – Review of Staffing Decisions

Appendix E — *Public Service Act*
Review of Staffing Decisions Regulation

Appendix F — Glossary

APPENDIX A

Frequently Asked Questions:

— The Merit Principle and the Audit Process

— The Audit Program

Appendix A

1.0 Frequently Asked Questions — The Merit Principle and the Audit Process

1.1 What is the purpose of the merit principle?

The merit principle is designed to ensure that the best person is hired for a position. "Merit" means that appointments will be non-partisan and made on the basis of an assessment of competence and ability to do the job.

The *Public Service Act* requires that all appointments to and from within the public service be based on the principle of merit unless the appointment is specifically exempt.

The factors of merit, as provided in the Act, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

1.2 What is an audit?

An audit is an examination that compares evidence of performance against predetermined criteria, with the goal of verifying adherence and reporting the performance or results.

The auditor, who is an independent expert appointed following a tendering process, is required to gather enough supporting and independent evidence in sufficient detail to support their conclusion. To ensure that files selected for audit are identified at random, the file selection process is done with the assistance of BC STATS using a mathematical sampling technique.

1.3 Why audit completed job competitions?

The Merit Commissioner is responsible for monitoring eligible public service appointments and to report on whether the merit principle was properly applied. The legislation requires the use of random audits of appointments to and from within the public service to assess whether the appointments are based on merit and whether the individuals appointed possess the required qualifications for the position to which they were appointed. The use of an audit process brings rigour and objectivity to the assessment of whether merit was applied.

1.4 How will results from audits be reported?

The Merit Commissioner will report audit results to Deputy Ministers or other persons having overall responsibility for the ministries, boards, commissions, agencies or organizations audited.

An annual report will also be made to the Legislative Assembly. The report to the Legislative Assembly must not disclose:

- Personal information, as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*, relating to individuals who applied for or were appointed to positions in the public service; or
- The identity of persons who participated on behalf of the ministries, boards, commissions, agencies or organizations, as the case may be, in the selection of the individuals appointed to positions in the public service.

1.5 What happens if an audit determines that the merit principle was not applied?

The Merit Commissioner audits appointments after the recruitment and selection process has concluded.

The audit results are provided to the head of the applicable ministry, agency, board or commission. The audit report does not comment on whether a competition process should be overturned in cases where the merit principle was not applied. The Merit Commissioner may decide to initiate an investigation where the merit principle has not been applied.

2.0 Frequently Asked Questions — The Audit Program

2.1 What is the objective of the audit program?

The audit program is a step-by-step guide for the review of documentation and independent evidence relating to an appointment decision. The audit program systematically reviews and assesses information that is relevant to making a reasoned decision on whether merit was or was not applied and whether the individual possessed the required qualifications for the position to which they were appointed.

The audit program recognizes that there are certain common elements related to any staffing process such as a description of job duties, a job posting/advertisement, individual applications, an assessment process, etc. and has therefore been designed in a logical sequence in order to minimize the number of times the auditor handles specific file documentation. This makes it easier and less time-consuming to complete the audit program.

2.2 What is considered in a merit compliance audit?

Merit is more than the principle itself. There are legislative, collective agreement and policy requirements that have to be taken into account. Decisions should be based on a process that is consistent, transparent, fair, relevant and reasonable.

For example, the appointment of an individual must be as a result of: a staffing process which was fair, consistent and transparent; an assessment based only on factors relevant to the work to be performed; and decisions made throughout the process which were reasonable. A staffing process that assesses applicants differently enough that one applicant is measurably disadvantaged relative to other applicants or assigns value to factors that are unrelated to competencies to perform the duties of the position, would not meet the test of fairness relative to merit. The appointment decision must be a reasonable outcome of the process.

The auditor is not required to follow the questions/steps in order, provided all sections of the audit program are completed (or noted as not being applicable) before any conclusions are made about

whether the appointment was based on merit and whether the individual appointed possessed the required qualifications for the position.

2.3 Does the audit program support a results-based approach to staffing?

Yes. The audit program provides opportunities for the auditor to describe the staffing process followed and any exceptions.

The audit program does not assume that staffing processes are structured the same way and reflects an approach to staffing that is principles-based and results oriented by allowing for creativity and flexibility. However, it does assume that there are certain common elements related to any staffing process such as: a description of job duties; a statement of selection criteria; consistent and accurate job posting information; a fair and consistent process that assesses candidates against criteria relevant to the job; and clear and properly communicated selection decisions. These should be documented.

APPENDIX B

Merit Audit Program

BRITISH COLUMBIA
The Best Place on Earth

Ministry of Finance Internal Audit & Advisory Services

MEMORANDUM

To: Joy Illington
Merit Commissioner

September 21, 2006
File No.: 701047

From: Behram Dadachanji
Director, Operations
Internal Audit & Advisory Services
Ministry of Finance

Subject: Merit Audit Program

We have reviewed the methodology used by your auditors to audit public service appointments.

The program addresses your audit responsibilities under the *Public Service Act*.

Our office initially developed the audit methodology in 2001 with the assistance of Office of the Merit Commissioner staff as well as input from a focus group comprised of human resource professionals and line managers from various ministries. Your office has since amended the audit program in response to changes in the *Public Service Act* and for clarity and efficiency.

The issues encountered in each audit will require a significant degree of judgment to assess their impact on the application of the merit principle. The individuals conducting these audits must have extensive training and experience in the human resource field to deal with the subject area issues as well as knowledge of audit methods. Our office will continue to be available for consultation, advice and training. We recommend that your office periodically review the program to ensure quality and consistency, and assess whether issues warrant adjustments to the program. I understand that the current program will be reviewed prior to the audit of 2006 appointments, and we are pleased to assist your office in carrying out this review.

If the audit program is carried out as designed, we believe that the auditor will examine and obtain sufficient appropriate evidence to form and support an opinion on the application of merit. The results of these audits will allow the Merit Commissioner to reasonably conclude and report on whether:

- the recruitment and selection processes were properly applied to result in appointments based on merit, and
- the individuals when appointed possessed the required qualifications for the positions to which they were appointed.

..../2

Limitations:

The audit program is designed to gain reasonable assurance rather than absolute assurance over past events. The audit program is not designed to uncover collusion involving all panel members, a purposeful manipulation of competition file documents, or to determine the intent behind any misapplication of merit.

original signed by

Behram Dadachanji
Director, Operations
Internal Audit & Advisory Services

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

NOTE TO AUDITOR:

1. Obtain the original file for the staffing process under review;
2. Read Appendix "A"; Assessing the Use of the Merit Principle, the Audit Process and the Audit Program; and
3. Complete the following questions.

1. APPOINTMENT DETAILS

Appointments subject to review
Appointment Type (check one):

- Permanent Appointment: _____ In-Service: _____ Out of Service: _____
- Temporary Appointment > 7 months: _____
- Direct Appointment: _____

Appointments exempt from review
Appointment Type (check one):

- Lateral transfer: _____
- Demotion: _____
- Temporary Appointment < 7 months: _____
- Appointment of an Auxiliary Employee: _____

Classification, Ministry: _____

BCGEU/Nurses/PEA/Exclusion: _____

Successful Candidate(s): _____

Eligibility List (if applicable): _____

- Comments:

2. JOB POSTING/ADVERTISEMENT

		Yes	No
a)	Did the job posting/advertisement (including additional information via electronic links or subsequently given) provide applicants with sufficient detailed and relevant information reflecting both the job and the selection criteria? • What evidence supports this finding?	☐	☐
b)	Did all applicants have access to the same information? • What evidence supports this finding?	☐	☐
c)	Was there consistency, relevancy, reasonableness between the duties described in the job description, the job posting/advertisement and the stated selection criteria? • What evidence supports this finding?	☐	☐

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

3. INITIAL SCREENING FOR APPLICANT ELIGIBILITY

	Yes	No
a) Were all applications submitted for this competition accounted for?	☐	☐
• What evidence supports this finding?		
b) Did all applicants apply within the timeline for receipt of applications?	☐	☐
• If no, provide details:		
c) Were applications assessed for initial eligibility? (e.g. where applicable: in/out of service, age, eligibility to work in Canada, regular status for temporary appointment > 7 months, location requirements, etc.)	☐	☐
• What evidence supports this finding?		

4. SHORT LISTING

	Yes	No
a) From the documentation related to the screening/short listing process:		
How many applicants were eligible for the competition?	_____	
How many eligible candidates met the mandatory criteria (i.e. were short listed)?	_____	
How many eligible candidates did not meet the mandatory criteria?	_____	
How many candidates withdrew from the competition?	_____	
b) Were eligible applications screened against the same mandatory (short listing) criteria?	☐	☐
• What evidence supports this finding?		
c) If equivalencies were advertised, were the accepted equivalent criteria documented and considered?	☐	☐
• What evidence supports this finding?		
d) Were applications short listed using only the advertised criteria?	☐	☐
• If screening criteria were revised, provide details:		

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

4. SHORT LISTING (cont.) **Yes** **No**

e) Did all candidates who met the screening criteria proceed to the next phase of the section process? ☐ ☐

- If no, provide evidence/details (e.g. withdrawals, other):

f) Select a representative sample (suggest 5 - 15%) of the applications that were screened out and check whether any of these candidates met the mandatory screening criteria. ☐ ☐

- Findings:

5. ASSESSMENT PROCESS **Yes** **No**

a) COMPLETE THE ATTACHED AUDIT WORKSHEET (AWS)

b) Were all the mandatory selection criteria assessed? ☐ ☐

- If no, provide details

c) Were minimum qualifying standards (e.g. pass marks if using numerical ratings) pre-established for all assessment method(s) used? ☐ ☐

- What evidence supports this finding?

- If no, or subsequent changes made, provide details:

d) Review the file documentation for, at a minimum: (1) the successful candidate(s); (2) if applicable, all candidate(s) placed on an eligibility list (3) the highest ranked unsuccessful candidate; and (4) an unsuccessful candidate with a mid-range score, and answer the following questions.

i) Were candidates assessed and evaluated consistently, using the same standards? e.g. comparison of scoring to marking key and comparison of scoring between candidates ☐ ☐

- What evidence supports this finding?

- If no, what was the difference, and was it different enough that a candidate is measurably disadvantaged relative to other candidates?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.) **Yes** **No**

ii) Were all assessment scores/marks accounted for? e.g. accurate transcriptions of individual scores to final rating sheet; accurate tabulations, etc. ☐ ☐

- What evidence supports this finding?

- If no, give details of discrepancies.

iii) Were past work performance checks done at some step in the assessment process for, at a minimum, all applicants who were offered a position or placed on an eligibility list? ☐ ☐

iv) Were past work performance checks assessed consistently according to criteria relevant to the job? ☐ ☐

- What evidence supports this finding?

v) Were years of continuous service assessed? Note: Years of continuous service must be assessed for BCGEU positions using the "relatively equal" calculation. Years of continuous service must be considered, but not necessarily assessed, for all other positions. ☐ ☐

vi) If years of continuous service were not assessed, and the position is other than a BCGEU, what evidence supports the finding that years of continuous service were considered, and at what point? ☐ ☐

vii) If years of continuous service were assessed, was the assessment accurate? ☐ ☐

- If no, did the error(s) affect the outcome of this competition?

- What evidence supports this finding?.

e) When considered as a whole, was the assessment process consistent with the stated selection criteria and based only on factors relevant to the work to be performed? ☐ ☐

- What evidence supports this finding?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

5. ASSESSMENT PROCESS (cont.)

		Yes	No
f)	Does the documentation provide sufficient information to demonstrate how each of the factors of merit was considered? (includes education, skills, knowledge, experience, past work performance and years of continuous service)	☐	☐
g)	Overall, was the assessment of applicants consistent with the principles of transparency, consistency, relevancy, fairness and reasonableness?	☐	☐

- If no, please provide details:

6. APPOINTMENT DECISION

		Yes	No
	Review the documentation related to: (1) the successful candidate(s); and (2) if applicable, all candidates placed on an eligibility list. For each of these candidates confirm the following:		
a)	Candidates were made an offer or, if applicable, placed in correct order on eligibility list.	☐	☐
b)	Where a candidate declined an offer, were subsequent offer(s) made in order of eligibility?	☐	☐

- If the answer is "no" for any of the above questions, provide details:

c)	Is the appointment decision a reasonable outcome of the assessment process?	☐	☐

- If no, please provide details:

Review the documentation related to the communication of the appointment decision to the unsuccessful applicants. For each of these candidates, confirm the following:

d)	Did the unsuccessful employee applicants (at a minimum) receive communication (e.g. letter or email) regarding the outcome of the staffing process?	☐	☐

- What evidence supports this finding?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

6. APPOINTMENT DECISION (cont.)

	Yes	No
e) If an eligibility list was established and candidate(s) placed on the list, were those candidates advised of their placement on the list and how long the list would be active?	☐	☐

- What evidence supports this finding?

7. REVIEW OF STAFFING DECISIONS

	Yes	No
a) Did this competition prompt a request for an internal inquiry?	☐	☐

- If yes, how many requests were received by the Deputy Minister for this competition? _____

Did the Deputy Minister support the manager's appointment decision?	☐	☐

- What evidence supports this finding?

b) Did the competition prompt a request for review by the Merit Commissioner?	☐	☐

- If yes, how many requests were received by the Office of the Merit Commissioner? _____

Did the Merit Commissioner support the ministry's appointment decision?	☐	☐

- What evidence supports this finding?

8. CONCLUSIONS

	Yes	No
a) Does this audit lead to the finding that the appointment was based on the principle of merit?	☐	☐

- If not, what evidence supports this finding?

b) Does the file documentation indicate that the individual(s), when appointed, possessed the required qualifications for the position?	☐	☐

- What evidence supports this finding?

Individual Appointed: _____ Auditor's Initial: _____ Date: _____

Competition #: _____

9. ANY FOLLOW-UP REQUIRED?

Follow Up: Date Completed:

10. OTHER COMMENTS

11. AUDITOR SIGN-OFF

Name: Phone: Date:

AUDIT FILE CONTENTS:

Required documentation:

- **Completed Merit Audit Program report**
- **Supporting evidence, appropriately referenced**
- **Auditor's letter of findings to the ministry**

COMPETITION # _____

AUDIT WORKSHEET (To be completed as part of Sectio

(See reverse side for instructions)

MANDATORY SELECTION CRITERIA
PREFERRED SELECTION CRITERIA

Auditor's initial: _____ Date: _____

n 5 of the Audit Program)

	ASSESSMENT PROCESS
	ASSESSMENT PROCESS

AUDIT WORKSHEET — INSTRUCTIONS

1. In the left-hand column, list all the mandatory and preferred selection criteria from the job advertisement, as well as any additional selection criteria provided as a supplement to the advertisement. Place one criterion per line.
2. Review all assessment methods and tools (e.g. tests, interviews, reference questions, etc.) used as part of the selection process. Determine how each of the mandatory selection criteria was assessed and place this information in the right-hand column next to the relevant mandatory criterion. If a specific selection criterion was missed by any of the assessment methods used, enter "Not Assessed" in the right-hand column next to that criterion.

EXAMPLE: Here is a hypothetical statement of qualifications from a Job Posting:

"Diploma, certificate or program completion in computer science and at least three years of related experience in business and systems analysis. Basic knowledge of computer systems design. Knowledge of relational database concepts. Excellent technical writing skills."

Assume that the information in the job competition file shows that the panel used education (Diploma, certificate or program completion in computer science) as a basis for screening the applicants. The panel also used experience to screen applicants and later asked the preferred candidate's references about the preferred candidate's actual experience. The panel assessed "basic knowledge of computer systems design " in the oral interview and tested for "knowledge of relational database concepts" as part of a written test administered to all short-listed candidates. The panel did not test to determine whether each candidate had excellent technical writing skills and did not ask references whether the candidate possessed this skill.

Using the above example, the audit worksheet for this competition file would be completed as follows:

MANDATORY SELECTION CRITERIA	ASSESSMENT PROCESS
EDUCATION	
Diploma, certificate or program completion in computer science	Assessed during the Shortlisting Process
EXPERIENCE	
At least three years of related experience in business and systems analysis	Assessed during the Shortlisting Process Reference Check
KNOWLEDGE	
Basic knowledge of computer systems design	Oral Interview Reference Check
Knowledge of relational database concepts	Written Test
SKILLS	
Excellent technical writing skills	Not Assessed

APPENDIX C

Random Selection for Merit Compliance Audits

Random Selection for Merit Compliance Audits

Prepared by BC STATS for the
Office of the Merit Commissioner

September 2006

BRITISH COLUMBIA

Service BC
Ministry of Labour and
Citizens' Services

Background

The Office of the Merit Commissioner was established by legislation in August 2001. Under this legislation, the Merit Commissioner is responsible for performing audits of public service appointments, as part of a program of monitoring the application of the merit principle across government. The results of the audits are reported to senior management in ministries and other organizations covered by the *Public Service Act*. In aggregate, the results are also communicated to the Legislature as part of the annual report of the Commissioner.

The audits are designed to assess whether recruitment and selection practices have resulted in appointments based on merit, and whether individuals possess the required qualifications for the position to which they were appointed. This requires a close study of the details of each appointment by an expert in the staffing process.

BC STATS has undertaken to ensure that the selected cases are both random and representative. This paper describes the appointments that have taken place in the past year, and explains the method that was used to make an audit selection from these appointments.

Appointments 2005

Appointments were selected based on the 2005 calendar year. In 2005, according to the query parameters as established by the Office of the Merit Commissioner, 2,876 appointments were made. Order-in-Council (OIC), transfers, auxiliary appointments, and temporary appointments of less than seven months are not covered in this study.

These 2,876 appointments spanned 180 job titles in 36 ministries and organizations covered by the *Public Service Act*. The most common job titles were "Management Level 04" and "Clerk R9" with 146 and 136 appointments respectively. In fact, there were 610 Management Level appointments in 2005 (21% of all appointments).

Ministries with the highest number of appointments, collectively comprising 53% of all 2005 appointments include:

• Children and Family Development	419	(14.6%)
• Forests and Range and Minister Responsible for Housing	338	(11.8%)
• Attorney General	312	(10.8%)
• Public Safety and Solicitor General	280	(9.7%)
• Health	164	(5.7%)

Forty-eight percent (48%) of appointments occurred in Victoria in 2005.

Random Selection of Cases

The objective of the Merit Commissioner study is to sample all new appointments in order to obtain an unbiased picture of recruitment practices in the public service. This objective requires a random sample to effectively and efficiently monitor application of the merit principle in public service recruitment.

Within the objective of selecting a random sample, it is also important to ensure that the sample is representative of the actual population. Appointments can be categorized by classification, ministry or organization, location, ministry size, whether permanent or temporary exceeding seven months, and by whether employees are new hires or internal. See the section entitled "Distribution of Audits" for comparisons of all 2005 appointments and the sample selection.

The number of audits performed in respect to the time available this year was 75. As a result of this relatively small number, it was not possible to guarantee that all of the various categories of appointments can be matched from the audit selection methodology to the actual population. Consequently, as in previous years, three categories were selected as being of greatest importance:

- Ministry size (large or small);
- Appointment status (direct appointment, permanent or temporary exceeding seven months); and
- Employee type (new hire or internal hire).

Ministry size was based on total regular employment at the start of the study period. Ministries with 1000 or more employees were deemed large; ministries with less than 1000 employees were deemed small.

A 2x3x2 matrix was built to reflect the number of possibilities in each of the above three categories, providing us with 12 "cells" into which appointments can be sorted. However, there were no temporary appointments and no direct appointments from outside the public service, which eliminated 4 of the cells. This left 8 cells.

To select the cases for audit, each of the 2,876 appointments was allocated to one of the eight cells. The number of audits within each cell was calculated as the overall selection ratio of (75/2,876) multiplied by the number of cases in the cell. The result of this calculation was rounded to the nearest whole number. This number of cases was then obtained from each cell by sorting in a purely random order and selecting the required number sequentially.

After the final sample had been presented to the Office of the Merit Commissioner for auditing, five of the sampled records were deemed to be out of scope. They were removed from the sample and the original population, leaving 70 sampled records out of a possible 2,871. No attempt was made to identify other records in the population that, had they been sampled, might have been found to have been out of scope. The statistics presented in the rest of the report are based on this reduced population (70/2,871).

In summary, random sampling was used to ensure broadly based auditing of all appointments. Sampling independently in the above mentioned categories ensures correct proportional coverage of:

- large and small ministries;
- permanent, temporary and direct appointments; and
- new hires versus internal appointments.

As a result, the chance of audit is *virtually* identical for each and every appointment, while the correct proportion of audits remains guaranteed in the most important categories.

Distribution of Audits

The following four tables show how the audits are distributed according to various characteristics of appointments. The first three tables cover the categories that were used in sample stratification, the final table referring to a characteristic that was not explicitly controlled. In all cases, percentages were rounded to the first decimal place, and were summed to 100%. However, the match between the sample percentages and the corresponding percentages among all appointments is quite close, indicating that the sample is reasonably representative of the whole.

Audits by Ministry/Organization Size

Ministry	Percent of all Appointments	Number of Audits	Percent of all Audits
Large	63.2%	42	60.0%
Small	36.8%	28	40.0%

Audits by Appointment Status

Appointment Status	Percent of all Appointments	Number of Audits	Percent of all Audits
Direct App.	1.8%	1	1.4%
Temporary	13.7%	8	11.4%
Permanent	84.6%	61	87.2%

Audits by Hire Type

Hire Type	Percent of all Appointments	Number of Audits	Percent of all Audits
New Hire	15.6%	12	17.1%
Internal	84.4%	58	82.9%

Audits by Location

Location	Percent of all Appointments	Number of Audits	Percent of all Audits
Victoria	48.4%	32	45.7%
Other	51.6%	38	54.3%

Uses and Limitation of Audit Results

The appointments selected for audit are a random and reasonably representative sample of all appointments in 2005 — the audit selection is unbiased in regards to the sampling framework. However, it is important to stress that the findings from the sample cannot necessarily be generalized to the entire population of appointments.

This means that should the audit process uncover any problems with the way appointments are awarded, this sample should not be used to attribute the same proportion of problems onto the actual population. For example, if the audit process discovers problems with 30% of appointment awards, one cannot necessarily say that 30% of the appointments in the actual population will be problematic.

However, if the audit process discovers there are no significant problems with the way appointments are awarded, then it is reasonable to conclude that there are very few problematic appointments in the actual population.

On other words, this sample is unbiased and representative of the actual population, but if problematic appointments are found, a larger sample size would be necessary to determine the actual number of problematic appointments in the overall population.

APPENDIX D

Public Service Act
Part 4 – Review of Staffing Decisions

APPENDIX D

Public Service Act

Part 4 – Review of Staffing Decisions

Definitions

16 In this Part, **"deputy minister"** means,

(a) with respect to a position in a ministry, the deputy minister of that ministry, and

(b) with respect to a position with a board, commission, agency or organization, the person having overall responsibility for the board, commission, agency or organization.

Request for feedback on staffing decision

17 (1) An employee who is an unsuccessful applicant for an appointment to the public service may, within the prescribed time, request from the individual responsible for the appointment an explanation of the reasons why he or she was not appointed.

(2) The responsible individual must provide an explanation as soon as practicable after receiving a request under subsection (1).

Inquiry into staffing decision

18 (1) An employee who has made a request under section 17 may request an inquiry into the application of section 8 (1) with respect to the appointment.

(2) A request under subsection (1) must be made within the prescribed period to the deputy minister responsible for the position and must include a detailed statement specifying the grounds on which the request is made.

(3) The deputy minister who receives an application under subsection (1), or a person designated by the deputy minister, must inquire into the appointment and confirm the appointment or proposed appointment or direct that the appointment or proposed appointment be reconsidered.

Review by merit commissioner

19 (1) An employee who is an unsuccessful applicant for an appointment to a position in a bargaining unit under the *Public Service Labour Relations Act* who has made a request under section 18 and disagrees with the decision of the deputy minister or designate under that section may request a review of the appointment by the merit commissioner on the ground that section 8 (1) has not been complied with.

(2) A request under subsection (1) must be made in writing within the prescribed period to the merit commissioner and may only be based upon the grounds submitted to the deputy minister under section 18 (2).

(3) Subject to the regulations, the merit commissioner must establish the procedure for the expeditious consideration of requests for reviews under subsection (1).

(4) If an applicant requests a review under subsection (1), the merit commissioner must, before undertaking the review, inform the deputy minister of the review.

(5) The merit commissioner may summarily dismiss a request for a review under subsection (1) if

(a) the request for review is not made within the time limit prescribed under subsection (2),

(b) the merit commissioner considers that the request for review is frivolous, vexatious or trivial or is not made in good faith,

(c) the request for review does not contain sufficient information to determine whether section 8 (1) has been complied with, or

(d) the grounds, even if proven, are not sufficient to establish that section 8 (1) has not been complied with.

(6) After conducting a review, the merit commissioner may

(a) dismiss the review, or

(b) direct that the appointment or the proposed appointment be reconsidered.

(7) This section does not apply with respect to an appointment to the public service that is referred to in section 10.

Inquiry Act

20 For the purpose of a review under section 19, the merit commissioner has the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Decision final

20.1 A decision of the merit commissioner under section 19 is final and binding.

APPENDIX E

Public Service Act
Review of Staffing Decisions Regulation

APPENDIX E

Public Service Act

REVIEW OF STAFFING DECISIONS REGULATION

Definition

1 In this regulation, **"Act"** means the *Public Service Act*.

Request for feedback

2 (1) An unsuccessful applicant for an appointment to the public service who wishes to make a request for an explanation to the individual responsible for the appointment under section 17 of the Act must do so within five days of receiving notice of the staffing decision.

(2) The request may be made orally, either in person or by telephone, or in writing.

(3) A written request must be given to the individual responsible or sent to that individual by courier or electronic transmission.

Request for an inquiry

3 (1) An employee who wishes to request an inquiry under section 18 of the Act must make a written request to the deputy minister within five days of receiving an explanation under section 17 of the Act.

(2) The written request must be given to the deputy minister or sent to the deputy minister by courier or electronic transmission.

Request for a review

4 (1) An employee who wishes to make a written request for a review under section 19 of the Act must do so within five days of receiving the results of the inquiry under section 18 of the Act.

(2) The written request must be given to the merit commissioner or sent to the commissioner by courier or electronic transmission.

Remedy of irregularities

5 A review under section 19 of the Act is not invalid because of a defect in form, a technical irregularity or an error of procedure that does not result in a denial of natural justice, and the merit commissioner may relieve against those defects, irregularities or errors of procedure on just and reasonable terms.

APPENDIX F

Glossary

APPENDIX F
Glossary

Auxiliary appointment — the appointment of an individual to a position that is not of a continuous nature. For example, seasonal positions; positions created to carry out special projects or work which is not continuous; temporary positions created to cover employees on vacation or other leaves of absence; and temporary positions created by special employment programs.

Direct appointment — under the authority of the *Public Service Act*, an employee who has been directly appointed to the public service by the Deputy Minister of the BC Public Service Agency in unusual or exceptional circumstances.

Lateral transfer — the movement of an employee from one position to another with the same maximum salary.

Order in Council appointment — as provided by Section 15 of the *Public Service Act*, individuals appointed by the Lieutenant Governor in Council.

Public service — refers to (a) all ministries of the government, and (b) any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant Governor in Council declares the *Public Service Act*, or a provision of this Act, to apply.

Regular appointment — the appointment of an individual who is employed for work that is of a continuous full-time or part-time nature.

Temporary appointment — the appointment of a regular employee to another position for a limited period of time. For example, a vacancy created by approved leaves of current employees, time limited projects, recruitment lag and seasonal or temporary relief work.

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